

## **GUIDELINES ON THE IMPLEMENTATION OF THE LAW ON SUPPRESSION ON HUMAN TRAFFICKING AND SEXUAL EXPLOITATION**

The Constitution of Kingdom of Cambodia states:

- That the selling of humans, or exploitation through prostitution and pornography or any other activity that affects the dignity of women, is prohibited.
- The state ensures the protection of the children's rights as stated in the convention on children, especially the right to life, right to education, right to support access during war, and the prevention of economic and sexual exploitation of children.
- Based on the above provisions, the Law on Suppression of Human Trafficking and Sexual Exploitation (LSHTSE) was disseminated and ratified by Royal Kram (No NS/RKR/0208/005) on February 15, 2008.
- People and authorities at all levels must now comply with the new law. Authorities who are involved in directly implementing the law, must clearly understand its contents to ensure it is effectively used in a transparent manner, to ensure justice for all citizens.
- The Leading Task Force against Human Trafficking has laid down the following guidelines to ensure effective interpretation and implementation of the new law. These guidelines intend to provide direction for justice police responsible for suppressions, the arrest of suspects sent to courts, and the rescue of victims.

### **I- General Guidelines**

- 1- Prior to raids, thorough investigation into the offences and activities must be conducted, and any evidence related to the crime(s) must be collected.
- 2- All suppression operations must be reported prior to operations taking place, and consultation with the prosecutors within the territory jurisdiction must also occur in order to obtain directions, instructions and facilitation for the operation.
- 3- All searches for suspects and evidence collections must strictly adhere to the guidelines set out within the new law. All evidence collected must be clearly and properly recorded and all properties seized, whether temporarily or permanently, must also be clearly and properly recorded.
- 4- Prostitutes are to be regarded as victims of procurement for prostitution. Prostitution is not a crime; thus the individual prostitutes are not punished as offenders under the new legislation.

### **II- Legal Principles**

The Law on Suppression of Human Trafficking and Sexual Exploitation has two clear objectives:

- 1- Suppression of human trafficking
- 2- Suppression of sexual exploitation

Therefore, law enforcement officers and authorities involved in the direct implementation of the law, must clearly understand each objective to ensure the law is effectively utilised in a transparent manner..

### **A- Human Trafficking**

Human trafficking is a complex crime and is often difficult to clearly identify. According to the UN Protocol, human trafficking is defined by three stages, these are recruitment, transportation and exploitation. In each stage, the acts differ according to the situation and circumstances of the trafficking activity.

The LSHTSE separates all components of human trafficking stated in the International Protocol for ease of implementation, definition and prosecution, For example the following components are separated:

- 1- Selling and buying persons;
- 1- Selling and buying persons for financial benefit; and
- 2- Selling and buying persons for purpose of border crossing.

There are also some other associated acts such as:

- 1- Illegally moving persons for benefit or gain;
- 2- Illegal recruitment of persons for the purpose of exploitation;
- 3- Transportation of persons for the purpose of benefit or gain;
- 4- Receipt of persons for the purpose of benefit or gain.

The above four acts are considered associated offenses and have the characteristics of human trafficking.

There are other acts of human trafficking and include:

- 1- Bringing of persons illegally across a border;
- 2- Bringing of persons across a border;
- 3- Receipt of persons for the purpose of assisting human trafficking activities;
- 4- Unlawful detention of persons.

Authorities responsible for suppressing human trafficking must understand the related crimes specified in the new law, and authorities must also have a clear understanding of the elements of each offence,

### **B- Sexual Exploitation**

LSHTSE defines some sex-related acts as offences involving:

#### **1- Procurement of prostitution**

The law has defined the following acts as acts of the procurement for prostitution:

- Drawing a financial profit from the prostitution of others;

Unofficial translation by UNIAP

- Assisting or protecting the prostitution of others;
- Recruiting, inducing or training a person with the intention of prostitution;
- Exercising pressure upon a person to become a prostitute.

Authorities must try to understand the elements of each of the above four acts and obtain and collect any evidence in order to support arrests and the application of charges.

The following acts shall be also deemed equivalent to the acts of procuring prostitution:

- Serving as an intermediary between one person who engages in prostitution and a person who exploits or remunerates the prostitution of others;
- Facilitating or covering up resources knowing that such resources were obtained from procurement for prostitution;
- Hindering any acts of prevention, assistance, or re-education that is undertaken by a public agency, or by a private organization for the benefit of persons engaging in prostitution, or being in danger of prostitution.

## **2- Prostitution**

The law does not define prostitution as an offence. Any person identified as a prostitute must not be punished as offenders. However, the law does define some acts related to prostitution as an offence, these are:

- Management of prostitution;
- Management of an establishment used for prostitution;
- Provision of a premise for prostitution;
- Purchase of children for prostitution;
- Soliciting a child for prostitution;
- Provision of conditional money loans in connection with child prostitution;
- Provision of a contract for child prostitution.

## **3- Pornography**

The law defines some acts related to pornography as a offence, these are:

- Distributing, selling, leasing, displaying or presenting pornography in a public place;
- Producing, possessing, transporting, importing or exporting pornography for purpose of distributing, selling, leasing, displaying or presenting in a public place.

## **4- Indecency against minors under fifteen years**

The law defines acts of sexual intercourse with minors under the age of fifteen years as a offence;

- Engaging in sexual intercourse with a minor under fifteen years;
- Touching or exposing the genitals or any other body parts in a sexual manner, of a minor of minor under the age of fifteen years, or having a minor touch the actor's or a third person's genitals or other body parts in a sexual manner, with the intent to stimulate or satisfy the actor's sexual desire.

-

### **III- Guidelines on suppression of crimes**

1- Human trafficking is an act that severely affects a person's universal right to life and freedom. It must be investigated, prevented and prosecuted without exception.

The suppression of human trafficking is not only done to direct human trafficking acts but also to any related acts.

#### **2- Sexual exploitation**

Sexual exploitation is an act that severely affects a person's universal right to life and freedom. It must be investigated, prevented and prosecuted without exception.

- To ensure social order and public security, and the prevention of prostitution activities, authorities must take full action according to legal procedure in the following cases:

- If there is a complaint from persons in a neighborhood about prostitution activities;
- If there is a complaint from the victim who has been forced into prostitution;
- If there is prostitution of a child;
- If prostitution leads to public disorder and insecurity.

#### **Issue:**

In some cases prostitution and procurement for prostitution have are concealed by legal activities such as:

##### **1. Massage services**

At some massage parlors, massagers also provide sexual services to clients for extra income. Is this activity linked to the procurement for prostitution for the manager responsible for the massage parlor?

This case may or may not be linked to the procurement of prostitution, and is dependent on the situation and characteristics of the activities as follows:

- If the income from the sexual service is directly received by the massagers without dividing or paying to the manager of the massage parlor, the manager is not linked to the procurement of prostitution.
- On the other hand, if the income from sex service is shared or paid to the manager of that massage parlor, the manager is deemed to be linked to the procurement of prostitution.
- If the manager does not receive any dividend from sex service but pays for the room and utility costs, then the provision of the premises for prostitution is considered an offence..

##### **2. Karaoke Parlors**

Karaoke parlors can also involve prostitution activities and provide sexual services to clients. Karaoke parlors do differ from massage parlors in that Karaoke parlors do not

always provide sexual service on the premises. Some karaoke parlors providing sexual services will use specific venues such as hotels and guesthouses. In the following cases karaoke venues may be linked to prostitution offences where:

- The manager of the hotel or guesthouse also manages the sexual services and receives income from the service. This is considered as procurement for prostitution.
- The hotel or guesthouse charges the rental cost, and the hotel or guesthouse management knowingly rents out premises for prostitution activities., This is also considered an offence as it linked to the provision of premises for prostitution.

**+Cases where sexual services are provided outside the workplace, but during the working hours of a Karaoke parlor:**

If a Karaoke employee goes outside of the workplace and provides sexual services to clients and then pays Karaoke management, it is considered procurement for prostitution if:

- Money paid to employees is the dividend from sexual services, than this is considered procurement for prostitution.
- However, if money paid as compensation for absences from the work place to engage in sexual services or prostitution than this is not considered to be linked to procurement for prostitution.

This type of sex service is also applied to restaurant, beer promotion and other entertaining clubs services.

Effective management and suppression of incidences, or cases, with the above mentioned characteristics and definitions, can only occur through the application and enforcement of the LSHTSE.

**IV- Victims Guidelines**

The rights of the victims must be respected and victims must be appropriately and compassionately handled. Efforts must be made to ensure that victims are not re-victimized. In terms of victims, the following actions must be taken by appropriate authorities:

- As soon as victims are rescued, an interview must be conducted without delay or detention at the offices of the justice police.
- After interview, victims must be sent from the office of the Justice Police to locations based on the individual cases and characteristics of victims.
  - 1- If the victims are minors, they must be further handled by the Office of Social Affairs, Veterans and Youth Rehabilitation, and parents, guardians or persons legally responsible of the victim must be informed.
  - 2- Adult victims can be handled on the basis of their individual choice:
    - If they agree to go to the Offices of Social Affairs Veterans and Youth Rehabilitation, then they can be handled by these offices for further assistance.

Unofficial translation by UNIAP

- If they do not agree, they are free to return back to their homes.
- 3- All property of the victim must be returned to them after being seized.
- 4- Accurate records must be maintained relating to the hand over of victims to either the Office of Social Affairs Veterans and Youth Rehabilitation, or where the victims have returned home. All records must be sent to the prosecutors.

After receiving these guidelines, authorities at all levels must make a concerted effort to implement and adhere to the LSHTSE in a strict and transparent manner.

Phnom Penh Date      Month      2008

Leading Task Force  
Chair Person

Unofficial translation by UNIAP